

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 14/DEL/2018  
[Assessment Year: 2008-09]

M/s Ridhi Sidhi Fabrications Pvt Ltd  
304, Gupta Arcade, Shrestha Vihar  
New Delhi

Vs.

The I.T.O,  
Ward- 2(13)  
New Delhi

PAN: AADCR 3556

[Appellant]

[Respondent]

Date of Hearing : 27.09.2018  
Date of Pronouncement : 08.10.2018

Assessee by : Shri Sandeep Sapra, Advocate

Revenue by : Shri Surendra Pal, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 25, New Delhi dated 29.09.2017 pertaining to assessment year 2008-09.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming the disallowance of Rs. 15 lakhs made by the Assessing Officer u/s 68 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'].

3. At the very outset, the ld. AR pointed out that the first appellate authority has framed the appellate order ex parte. The ld. AR further stated that in the additional grounds, the assessee has specifically pointed out that no notice u/s 148 of the Act was issued by the Assessing Officer and since there was no proper and valid service of notice u/s 148 of the Act, the entire assessment is bad in law. It is the say of the ld. AR that if proper notice was served by the first appellate authority, the assessee could have defended its case properly.

4. In its application u/r 29 of the ITAT Rules, the assessee has furnished an Affidavit of Shri Raju Aggarwal, director of the appellant company, to demonstrate that no notice was served upon the appellant.

5. The Id. AR further drew my attention to Exhibits at pages 136 & 137 of the paper book and pointed out that the information called for by the Assessing Officer u/s 133(6) of the Act was duly replied by the parties and the same has not been considered by the Assessing Officer and the first appellate authority.

6. The Id. DR relied on the orders of the authorities below.

5. I have given thoughtful consideration to the orders of the authorities below and the relevant documentary evidences brought to my knowledge. Exhibit 136 is the letter submitted by D.U. Securities Pvt Ltd in response to notice u/s 133(6) of the Act and Exhibit 137 is the reply of Bhavani Portfolio Pvt Ltd in response to notice u/s 133(6) of the Act. Both have been filed on 18.03.2016 as per the Stamp of ITO, Ward - 21(3), New Delhi. In so far as the service of notice is concerned, the affidavit of the director cannot be brushed aside lightly.

6. Considering the facts of the case in hand in light of relevant documentary evidences brought to my knowledge, I deem it fit to remit the matter to the file of the Assessing Officer. The Assessing

Officer is directed to decide the issue afresh after considering the contents of the affidavit of the director and after considering the information supplied by the two parties u/s 133(6) of the Act and after giving reasonable opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee in ITA No. 14/DEL/2018 is treated as allowed for statistical purposes.

**The order is pronounced in the open court on 08.10.2018.**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 08<sup>th</sup> October, 2018

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	